

ADMISSION TO PRACTICE RULES

Rule 6. Admission by Bar Examination

A. All applicants for admission by bar examination:

1. must meet the requirements of Rules 1, 2 and 5;
2. shall apply to take the examination on forms provided by the Board;
3. must receive a passing scaled score of 260 or above on the North Dakota bar examination ~~as recommended by the Board in a pass/fail policy approved by the Supreme Court prior to each exam;~~ and
4. must receive ~~at least~~ a scaled score of 85 or above on the Multistate Professional Responsibility Examination (MPRE) within five years of filing an application.

B. The North Dakota bar examination shall be the Uniform Bar Examination (UBE) consisting of the Multistate Bar Examination (MBE), the Multistate Essay Examination (MEE), and the Multistate Performance Test (MPT), ~~which are prepared by and given under the supervision of~~ according to the standards established by the National Conference of Bar Examiners.

~~C. In lieu of taking the MBE in North Dakota, an applicant may transfer any MBE scaled score received from an examination given in another jurisdiction provided:~~

- ~~1. the other requirements of this Rule are met;~~
- ~~2. the applicant has been admitted to the bar of the jurisdiction in which the MBE examination was written; and~~
- ~~3. proof of the MBE score and a completed application are received at the offices of the Board within two years of the date of the examination in the jurisdiction of admission.~~

21 ~~DC.~~ Upon acceptance and approval of the application by the Board and the payment of the
22 required fees, the applicant may take the bar examination. This general permission to
23 take the examination does not imply that an applicant has met all the requirements
24 for admission to the bar of North Dakota.

25 ~~ED.~~ The Board shall set the ~~date, time, place and content~~ of each examination, and announce
26 the date and time of the examination.

27 ~~FE.~~ An applicant whose disability requires testing accommodations shall submit with the
28 application a written request on such forms as required under the Board's testing
29 accommodations policy. The Board shall notify the applicant of its decision and provide
30 an opportunity for reconsideration.

31 ~~GF.~~ Taking into consideration the results of the bar examination, along with the applicant's
32 moral character, the Board shall make a recommendation to the Supreme Court regarding
33 the admission of each applicant to the bar.

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35 **Rule 7. Admission by Motion**

36 A. Eligibility by Practice.

- 37 1. Any person who is a member of the bar of another state or the District of Columbia may
38 apply for admission by motion if that person:
- 39 a. meets the requirements of Rules 1 and 2;
 - 40 b. has been a member of the bar of another state or the District of Columbia for at least
41 five (5) years;

c. has for at least four (4) of the last five (5) years immediately preceding the application for admission on motion been actively engaged, to an extent deemed by the Board to demonstrate competency in the practice of law, in one or more of the following:

(1) the private practice of law;

(2) service as a judge of a court of record.

(3) the teaching of law as a full-time instructor in a law school or schools accredited by the American Bar Association; or

(4) the performance of full-time legal work in a legal capacity.

2. The application for admission by motion shall be filed with the Board. The application must be accompanied by:

a. an affidavit identifying all other jurisdictions in which the applicant has applied for admission and the final decision of the admitting authority in each jurisdiction;

b. certification of admission to practice by the admitting authority in each jurisdiction that the applicant has identified in a. as having admitted the applicant to the bar;

c. an affidavit disclosing the place or places in the other state or states or the District of Columbia where the applicant has practiced law;

d. the name and post office address, whenever possible, of at least one judge of a court of general jurisdiction who, during the specified period, has presided in a court before which the applicant has practiced law;

e. certification by the attorney disciplinary authority in each jurisdiction where the applicant has been admitted to the bar that there are no prior or pending proceedings

- of disbarment or suspension of the applicant's license to practice law against the applicant in that jurisdiction;
- f. the affidavits of at least two attorneys from another jurisdiction where the applicant has been admitted to the bar which attest to the applicant's good moral character and fitness to practice law. The affidavits must be from attorneys who practiced law contemporaneously with the applicant; and
- g. verification of 45 hours of approved or approvable course work in Continuing Legal Education, three hours of which shall be in the area of ethics or course work commonly considered professional responsibility, during the three years immediately preceding the application for admission to the bar of this state.
3. If the Board determines that the applicant's legal experience does not demonstrate sufficient competency in the practice of law, it shall require the applicant to take an attorney's examination. The Board shall set the date, time, place and content of each examination.
- B. Eligibility by Test Score.
1. An applicant may be eligible for admission by motion provided the applicant:
- a. meets the requirements of Rules 1 and 2;
- ~~b.~~ has received a scaled score of 85 or above on the Multistate Professional Responsibility Examination (MPRE) within five years of filing an application given ~~under the auspices of the National Conference of Bar Examiners;~~
- ~~b.~~ has received a scaled score of 260 or above on the Uniform Bar Examination (UBE) given in another jurisdiction, or a scaled score of 150 or above on the Multistate Bar

Examination (MBE) taken as a part of and at the same time as the essay or other written bar examination given by another jurisdiction that does not use the UBE, or that did not use the UBE on the date of the applicant's examination; and

d. has been admitted to the bar of the jurisdiction in which the UBE or MBE examination was written.

2. Proof of the UBE or MBE score and a completed application must be received at the offices of the Board within two years of the date of the examination in the jurisdiction of admission.

C. The application for admission by motion must be referred to the Board which shall investigate the same and its sufficiency, including the moral character of the applicant.

D. Taking into consideration each applicant's moral character, and the results of the attorney's examination, if required, the Board shall make a recommendation to the Supreme Court regarding the admission of each applicant to the bar.

Rule 10. Review Procedures

A. Informal Interview

At any stage of the application proceedings, the Board may request the applicant to appear before it or a designated Board member to answer any questions.

B. Formal Hearing

1. If the Board makes a recommendation for conditional admission or licensure, a negative recommendation for admission to the bar or a negative decision on licensure for any reason, it shall so notify the applicant by certified mail directed to the applicant at the

mailing address appearing on the applicant's application. The notice must specify the grounds for the recommendation or decision by the Board.

If a negative recommendation or decision is based on the grounds that the applicant has failed to pass ~~a portion of the~~ bar examination or the attorney's examination, upon written request, and payment of a reasonable copying fee, the applicant shall be provided copies of the appropriate point sheet or model analyses, prepared by or under the supervision of the National Conference of Bar Examiners, for that part of the applicant's examination. Any inspection and copying of the examination prepared and scored by or under the supervision of the National Conference of Bar Examiners will be as permitted by the guidelines and limitations prescribed by the National Conference of Bar Examiners or its designee.

a. If the Board provides for an independent duplicate grading procedure under the pass/fail policy, the Board will not regrade any exam; however, the Board may reconsider a score if there is an obvious flaw in the question or analysis or the overall administration of the examination was faulty.

2. Within 30 days after the mailing of the notification, the applicant may demand a formal hearing by written petition directed to the Board.

3. At least 20 days before the hearing, the Board shall notify the applicant of the time and place of the hearing and shall inform the applicant of the applicant's right to be represented by counsel and to present any witnesses as the applicant may choose.

4. The hearing must be on the record and, at the discretion of the Board, may be held before the Board or a hearing examiner appointed by the Board to conduct the hearing. The

Board shall set forth its findings of fact and its conclusions. If a hearing examiner is appointed to conduct the hearing, the findings and conclusions of the hearing examiner, to the extent that the Board adopts them, become the findings and conclusions of the Board.

5. The applicant has the burden of showing that the applicant should be admitted, with or without conditions, by a preponderance of the evidence.

6. The Board shall notify the applicant by certified mail of its findings of fact and its conclusions.

C. Supreme Court Consideration

1. An applicant who, after formal hearing, receives notice that the Board will recommend conditional admission or licensure, or has given a negative recommendation or decision on admission or licensure, may request review of that recommendation or decision by the Supreme Court. The review may be requested by written petition directed to the Clerk. The petition must be filed within 30 days after the Board's mailing of the notice of the results of the formal hearing.

2. The Clerk, upon receipt of a petition, shall notify the Board to prepare and file with the Clerk of the Supreme Court the record and files, including the transcript of the hearing, its findings of fact, and its recommendation. The cost of the transcript of the hearing, if any, shall be the responsibility of the petitioner.

3. To the extent appropriate, all proceedings before the Supreme Court must conform to the North Dakota Rules of Appellate Procedure. The Board shall participate in the briefing and oral argument before the Supreme Court.

151 4. The applicant has a burden of proof by a preponderance of the evidence.